

**RECEIVED** IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

2006 JUN -6 P 12:05  
UNITED STATES OF AMERICA

DEBRA P. HACKETT, CLK  
VS. U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

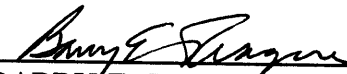
MOSES PENNIC, III

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CR No. 2:06-CR-14-W

**DEFENDANT'S REQUEST TO CHARGE JURY**

COMES NOW defendant, MOSES PENNIC, III, by and through his undersigned counsel,  
and respectfully requests this Honorable Court to instruct the jury on the requested jury charges  
attached hereto concerning the law relevant to the issues in this case.

  
BARRY E. TEAGUE, [TEA003]  
ATTORNEY FOR DEFENDANT

ADDRESS OF COUNSEL:  
138 Adams Avenue  
Post Office Box 586  
Montgomery, AL 36101  
(334) 834-4500; FAX 834-4501

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document has been served upon the United States Attorney and any other counsel of record by placing same in the U.S. Mail, postage prepaid and addressed as shown below, on June 6, 2006.

Hon. K. David Cook, Jr.  
Assistant U.S. Attorney  
Post Office Box 197  
Montgomery, AL 36101

  
BARRY E. TEAGUE

IN THE UNITED STATES DISTRICT COURT  
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UNITED STATES OF AMERICA

VS.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 1**

The jury will remember that a Defendant is never to be convicted upon mere suspicion or conjecture.

So, if the jury, after careful and impartial consideration of all the evidence in the case, has a reasonable doubt that a Defendant is guilty of the charge, it must acquit that Defendant.

\_\_\_\_\_ GIVEN      \_\_\_\_\_ REFUSED

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 2**

Now, in saying that you must consider all of the evidence, I do not mean that you must accept all the evidence as true or accurate. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision, you may believe or disbelieve any witness, in whole or in part. Also, the number of witnesses testifying concerning any particular dispute is not controlling. You may decide that the testimony of a smaller number of witnesses concerning any fact in dispute is more believable than the testimony of a larger number of witnesses to the contrary.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 3**

You should not give extra credence to a person's testimony just because of his or her status as a law enforcement officer. You must consider him or her as any other witness. Under the laws of the United States of America, witnesses, including law enforcement officers, are the same. Feelings of support for law enforcement officers, right or wrong, have no place under our system of justice.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 4**

When knowledge of a technical subject matter might be helpful to the jury, a person having special training or experience in that technical field --- one who is called an expert witness --- is permitted to state his or her opinion concerning those technical matters.

Merely because an expert witness has expressed an opinion, however, does not mean that you must accept that opinion. The same as with any other witness, it is up to you to decide whether to rely upon it.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 5**

You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience. And then decide what testimony you believe, and how much weight you think it deserves.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 6**

**Definition of Reasonable Doubt**

Thus, while the Government's burden of proof is a strict or heavy burden, it is not necessary that the Defendant's guilt be proved beyond all possible doubt. It is only required that the Government's proof exclude any "reasonable doubt" concerning the Defendant's guilt.

A "reasonable doubt" is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. If you are convinced that the Defendant has been proven guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 7**

Evidence - Direct and Circumstantial  
Argument of Counsel and  
Comment of Court

As stated earlier you must consider only the evidence that I have admitted in the case. The term "evidence" includes the testimony of the witnesses and the exhibits admitted in the record. Remember that anything the lawyers say is not evidence in the case. It is your own recollection and interpretation of the evidence that controls. What the lawyers say is not binding upon you. Also, you should not assume from anything I may have said that I have any opinion concerning any of the issues in this case. Except for my instructions to you on the law, you should disregard anything I may have said during the trial in arriving at your own decision concerning the facts.

In considering the evidence you may make deductions and reach conclusions which reason and common sense lead you to make; and you should not be concerned about whether evidence is direct or circumstantial. "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eye witness. "Circumstantial evidence" is proof of a chain of facts and circumstances indicating that the Defendant is either guilty or not guilty. The law makes no distinction between the weight you may give to either direct or circumstantial evidence.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 8**

Credibility of Witnesses

Now, in saying that you must consider all of the evidence, I do not mean that you must accept all of the evidence as true or accurate. You should decide whether you believe what each witness has to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in whole or in part. Also, the number of witnesses testifying concerning any particular dispute is not controlling. You may decide that the testimony of a smaller number of witnesses concerning any fact in dispute is more believable than the testimony of a larger number of witnesses to the contrary.

In deciding whether you believe or do not believe any witness, I suggest that you ask yourself a few questions: Did the person impress you as one who was telling the truth? Did he or she have any particular reason not to tell the truth? Did he or she have a personal interest in the outcome of the case? Did the witness seem to have a good memory? Did the witness have the opportunity and ability to observe accurately the things he or she testified about? Did he or she appear to understand the questions clearly and answer them directly? Did the witness's testimony differ from the testimony of other witnesses?

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 9**

**"Knowingly" Definition**

The word "knowingly," as that term has been used from time to time in these instructions, means that the act was done voluntarily and intentionally and not because of mistake or accident.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 10**

**Possession**

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may also have sole possession or joint possession.

A person who has direct physical control of something on or around his person is then in actual possession of it.

A person who is not in actual possession, but who has both the power and the intention to later take control over something, either alone or together with someone else, is in constructive possession of it.

If one person alone has possession of something, possession is sole. If two or more persons share possession, possession is joint.

Whenever the word "possession" has been used in these instructions, it includes actual as well as constructive possession, and also sole as well as joint possession.

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**DEFENDANT'S REQUESTED JURY CHARGE NO. 11**

There is nothing peculiarly different in the way a jury should consider the evidence in a criminal case, from that in which all reasonable persons treat any question depending upon evidence presented to them. You are expected to use your good sense and consider the evidence in the case for only those purposes for which it has been admitted, and give it a reasonable and fair construction, in the light of you common knowledge of the natural tendencies and inclinations of human beings. If the accused be proved guilty beyond a reasonable doubt, say so. If not so proved guilty, say so.

Keep constantly in mind that it would be a violation of your sworn duty to base a verdict of guilty upon anything other than the evidence in the case; and remember as well that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence.

Remember also that the question before you can never be: will the Government win or lose the case? The Government always wins when justice is done, regardless of whether the verdict be guilty or not guilty.

See: United States v. Teresa, 420 F.2d 13, 18 (4th Cir. 1969)

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